

ORDINANCE NO. O-2022-49

**AN ORDINANCE AMENDING THE TEXT OF THE WHEATON ZONING ORDINANCE ARTICLES 5.2 AND 5.9  
PERTAINING TO THE EXISTING PROVISIONS FOR ALL BOARDS, COMMISSIONS, AND COMMITTEES**

**WHEREAS**, the City of Wheaton, Illinois ("City"), has determined it to be appropriate to amend certain provisions of the Zoning Ordinance pertaining to the existing provisions for all Boards, Commissions, and Committees; and

**WHEREAS**, pursuant to notice as required by the Illinois Municipal Code and the City Zoning Ordinance, a public hearing was conducted by the Wheaton Planning and Zoning Board, acting as a hearing body on September 27, 2022 to consider said amendment to the text of the Wheaton Zoning Ordinance and the Planning and Zoning Board has recommended approval of the request.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule powers, as follows:

**Section 1:** The text of the Wheaton Zoning Ordinance, Article 5.2 of the Wheaton Zoning Ordinance is hereby amended by repealing and rescinding Article 5.2 in its entirety and replacing it with a new Article 5.2, which shall read as follows:

**"5.2 The Planning and Zoning Board**

- A. **Board**. The term "Board" when used in this chapter shall mean the Planning and Zoning Board.
- B. **Jurisdiction**. The Board is hereby vested with the following jurisdiction and authority:
  - 1. To hear and decide appeals from any order, requirement, decision, or determination by the Director of Planning and Economic Development.
  - 2. To conduct hearings and make recommendations regarding applications for variations from the regulations of this chapter in the manner and subject to the standards set out herein.
  - 3. To conduct hearings and make recommendations respecting proposed amendments or other zoning matters that may be referred to it by the City Council; and
  - 4. To perform such other functions as may be assigned to it by the City Council, or upon which it is required to act under this chapter.
- C. **Meetings and Rules**. All meetings of the Board shall be held at the call of the Chair and at such other times as the Board may determine. No meeting shall be held, or official action taken unless a quorum is present. A quorum shall consist of four members of the Board. All hearings conducted by the Board shall be open to the public. Any person may appear and testify at a hearing either in person or by duly authorized agent or attorney. The Chair, or in the Chair's absence, the Acting Chair, may administer oaths and compel the attendance of witnesses. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall also keep records of its hearings and other official actions. A copy of every rule, regulation, recommendation, order requirement, decision, or determination of

the Board shall be filed immediately with the Director of Planning and Economic Development and shall be a public record. The Board may adopt its own rules of procedure not in conflict with this chapter or with the applicable Illinois statutes. The rules of procedure and/or any amendments thereto shall be approved by the City Council."

**Section 2:** The text of the Wheaton Zoning Ordinance, Article 5.9 of the Wheaton Zoning Ordinance is hereby amended by repealing and rescinding Article 5.9 in its entirety and replacing it with a new Article 5.9, which shall read as follows:

**"5.9 Appeals**

- A. **Scope of Appeal.** An appeal may be taken to the Board by any person, firm or corporation, or by an officer, department, board, or bureau aggrieved by a decision of the Director of Planning and Economic Development under this chapter. An appeal shall be considered only if a dated, written request for appeal is filed within sixty (60) days after the date of the final order, requirement, decision, or determination of the Director of Planning and Economic Development under the Zoning Ordinance. The written request shall be filed with the Director of Planning and Economic Development and a copy simultaneously filed with the Board Chair. A notice of appeal specifying the grounds thereof shall be filed with the Director of Planning and Economic Development. The Director of Planning and Economic Development shall then forward to the Board any and all records relating to the action from which the appeal is taken.
- B. **Findings on Appeals.** An appeal shall stay all proceedings in furtherance of the action appealed from unless the Director of Planning and Economic Development certifies to the Board, after the notice of appeal has been filed with the Director, that by reason of facts stated in the certificate a stay would, in the Director's opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court record on application, and notice to the Director of Planning and Economic Development, and on due cause shown.

The Board shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the applicant and all interested parties and shall render a written decision on the appeal without unreasonable delay. The Board may affirm or may, upon the concurring vote of four members, reverse, wholly or in part, or modify, the order, requirement, decision, or determination, as in its opinion ought to be done, and to that end shall have all the powers of the officer from whom the appeal is taken.

- C. **Finality of Decision of the Planning and Zoning Board.** All final decisions of the Board, as they relate to an application for an appeal, shall be the final administrative determinations subject to judicial review as provided by law."

**Section 3:** This ordinance shall be cumulative of all provisions of the ordinances of the City of Wheaton, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

**Section 4:** If any phrase, clause, sentence, paragraph, or section of this ordinance is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such

unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance.

**Section 5:** This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.



Philip J. Suess  
Mayor

ATTEST: Andrea Rosedale

City Clerk

Roll Call Vote

Ayes: Councilman Brown  
Mayor Suess  
Councilwoman Fitch  
Councilwoman Robbins  
Councilman Weller  
Councilwoman Bray-Parker  
Councilman Barbier

Nays: None

Absent: None

Motion Carried Unanimously

Passed: November 7, 2022

Published: November 8, 2022

